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Public Hearing Date:	March 9, 2010
Land Use Action Date:	May 11, 2010
Board of Aldermen Action Date:	May 17, 2010
90-Day Expiration Date:	June 7, 2010

DATE: March 5, 2010

TO: Board of Aldermen

FROM: Candace Havens, Interim Director of Planning and Development
Benjamin Solomon-Schwartz, Senior Planner

SUBJECT: #43-10 FENG HUA CHOW/BLOOMINGDALE'S, INC./FEDERATED DEPARTMENT STORES, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a waiver of 11 parking spaces in order to convert approximately 2500 sf of existing space in Bloomingdales Department Store into a 50-seat Japanese restaurant at 225 BOYLSTON STREET, Ward 7, CHESTNUT HILL, on land known as Sec 65, Blk 8, Lot 99B, containing approx 190,368 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-19(d), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

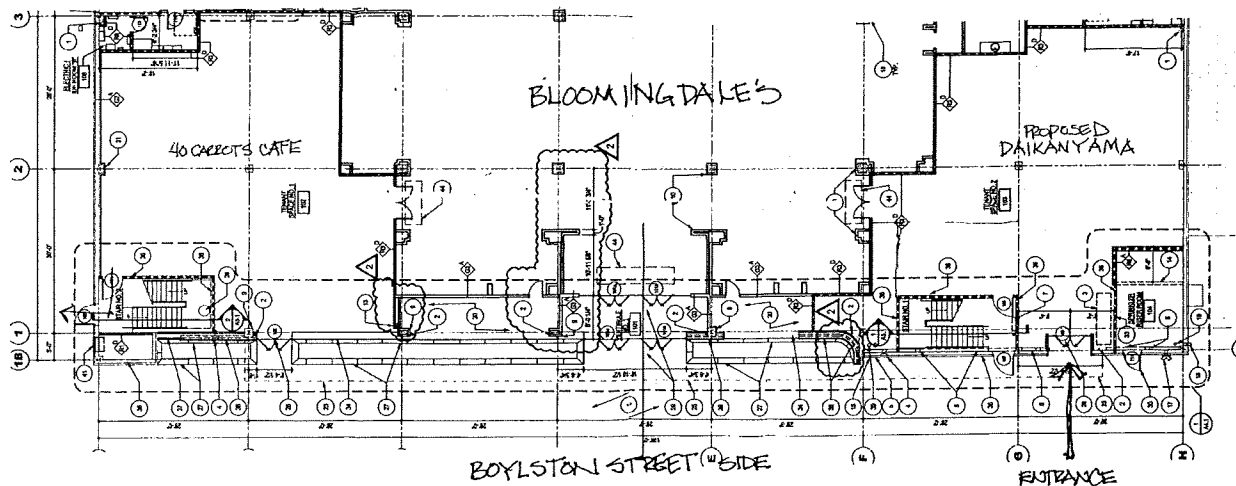
The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen.

The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The petitioners are proposing to change the use of 2500 square feet of space in Bloomingdale's in the Chestnut Hill Mall from retail to a restaurant. The proposed Japanese restaurant would have 50 seats and the change of use would require the provision of 11 additional parking spaces. The petitioners propose to change the use without any changes to parking on-site, arguing that there is sufficient parking on-site to accommodate the use. The 2007 *Newton Comprehensive Plan* encourages the use of shared parking for complementary uses, such as the proposed combination of the restaurant and other retail uses as the mall.



*View of existing Bloomingdale's façade facing Boylston Street (above)
and a floor plan showing the proposed location of Daikanyama (below)*

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should consider whether literal compliance with the parking provisions of the Zoning Ordinance is impracticable or that the proposed parking waiver is in the public interest.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located in the commercial area of Chestnut Hill along Route 9. There are several shopping centers and large apartment buildings in the neighborhood. In addition, there is a street of single-family homes adjacent to the mall. The Hammond Pond Reservation forms the northern boundary of the commercial areas (*SEE ATTACHMENTS "A" AND "B"*).

B. Site

The 190,368 sq. ft. site includes both ends of the Chestnut Hill Mall, which contain the two Bloomingdale's stores, as well as a substantial surface parking facility. The center of the mall and the parking structure are located on a separate lot under separate ownership (owned by C & R Realty Trust and managed by Simon Properties). For zoning purposes, the parking demand is calculated for the entire mall. The mall was opened in 1974 and currently has 2105 parking spaces on-site.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

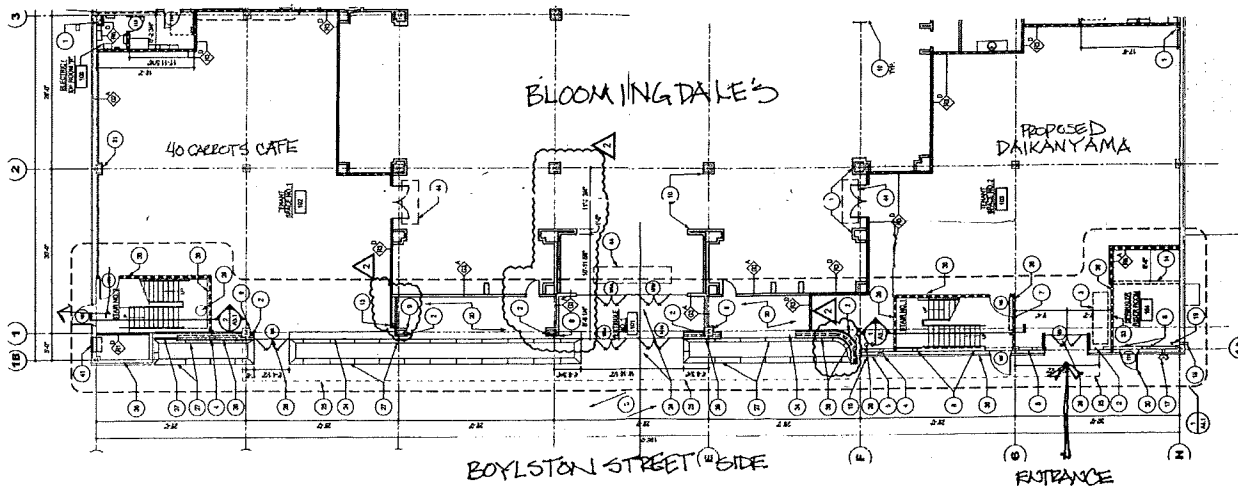
The petitioner proposes to change the use of 2500 square feet of space from retail to a 50-seat Japanese restaurant. The proposed restaurant will have an entrance from outside the mall and from the interior of Bloomingdale's.

B. Building and Site Design

The exterior changes to the building will be limited to decorative elements around an existing doorway, including a proposed sign. The remainder of the work will be an interior renovation of space inside Bloomingdale's (currently distinct from the Bloomingdale's retail area). The framework for the façade changes was



approved in the 2006 special permit that approved the changes to the Bloomingdale's sign and façade.



C. Parking and Circulation

Because the restaurant use complements the existing retail uses on-site, it is likely that the total parking demand for the mall with the proposed restaurant would be less than the total demand of a stand-alone retail store and a stand-alone restaurant, suggesting that a parking waiver may be reasonable.

There are 2105 parking spaces currently located at the Chestnut Hill Mall. The petitioner conducted counts of the available parking in the portion of the facility closest to the proposed restaurant between Saturday, December 12, and Tuesday, December 15. The survey shows sufficient vacancies to merit the parking waiver, including significant number of available spaces during lunchtime and dinnertime when the restaurant is likely to attract the most patrons. Indeed, because the survey was conducted in December, a busy time of year at shopping malls, it is likely that this is a conservative estimate and there will be even more parking available at other times of the year.

Bloomingdale's currently has a special permit for an annual rug sale on a portion of the parking lot with a parking waiver for the temporary displacement of 90 parking spaces. The survey data indicates the additional parking waiver of 11 spaces would not pose a problem during the two weeks of the rug sale as well as during the rest of the year. The current rug sale special permit expires after the 2011 rug sale. The board order specifies that the petitioner must conduct parking counters during the 2011 rug sale in order to apply for a special permit to continue the sale for additional years. Any problems during this time period will thus be resolved when the rug sale comes under its next review.

Finally, because the mall is a self-contained entity with limited access to other properties, even the unlikely event of parking demand exceeding parking supply would likely cause few, if any, negative spillover effects on neighboring properties.

D. Landscape Screening and Lighting

The petitioners have not proposed any additional lighting or landscaping. However, existing lighting of the façade and site should be sufficient.

IV. COMPREHENSIVE PLAN

The 2007 *Newton Comprehensive Plan* encourages the use of shared parking facilities. Because the proposed restaurant use will be complementary with the preponderance of retail areas in the store, sharing of parking and a reduction in parking requirements are appropriate.

V. TECHNICAL REVIEW

A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated January 11, 2010 (*SEE ATTACHMENT "C"*), provides an analysis of the proposal with regard to Section 30-19. A special permit is required for waiver of eleven parking stalls to allow the conversion of 2500 square feet from retail to restaurant use without the provision of any additional parking spaces.

B. Other Reviews. Review by the Engineering Department or access review by the Fire Department is not required the conversion of existing retail space to a restaurant.

VI. ZONING RELIEFS SOUGHT

Based on the completed zoning review, dated January 28, 2010 (*SEE ATTACHMENT "C"*), the petitioner is seeking approval through or relief from:

- Section 30-19, to waive a requirement for 11 additional parking spaces
- Section 30-23, for site plan approval
- Section 30-24, for approval of special permit

VII. Summary of Petitioner's Responsibilities

This petition is currently complete.

ATTACHMENT A: *Zoning Map*
ATTACHMENT B: *Land Use Map*
ATTACHMENT C: *Zoning Review Memorandum, dated January 11, 2010*

Zoning Map

225 Boylston St. and Vicinity

City of Newton,
Massachusetts

Legend

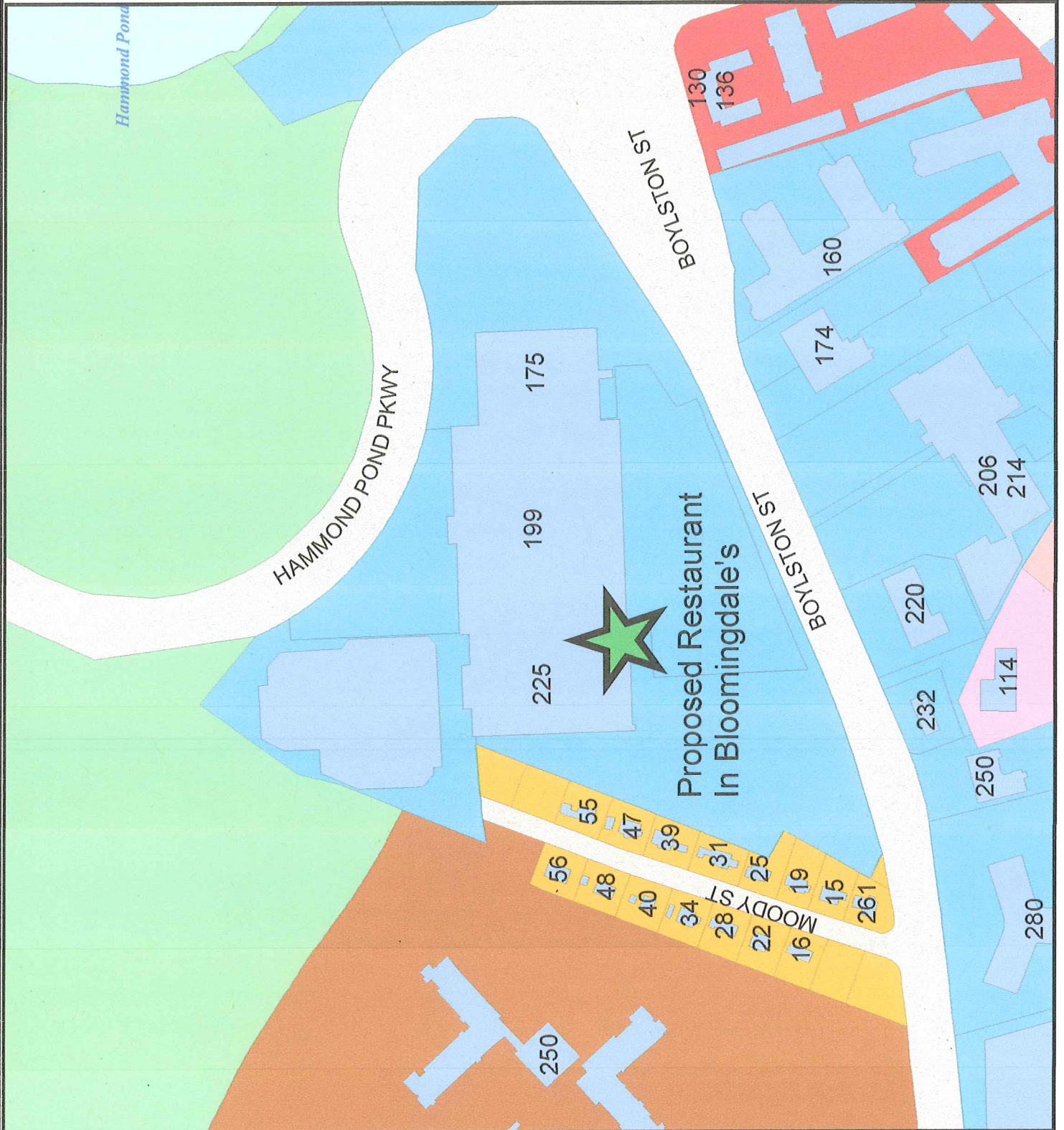
Building Outlines	Single Res. 1	Single Res. 2	Single Res. 3	Business 1	Business 2	Business 4	Business 5	Limited Manufacturing	Manufacturing	Multi-Res. 1	Multi-Res. 2	Multi-Res. 3	Multi-Res. 4	Mixed Use 1	Mixed Use 2	OS/Rec.	Public Use	Surface Water



The information on this Geographic Information System (GIS) map cannot guarantee the accuracy of the information. Each user is responsible for determining the suitability of the information for their purpose. City departments may not approve applications based on this information.

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MAP DATE: F



Land Use Map

225 Boylston St.
and Vicinity

City of Newton,
Massachusetts

Legend

- Building Outlines
- Single Family Residential
- Two Family Residential
- Condominiums
- Other Residential
- Mixed Use
- Commercial
- Industrial
- Vacant Land
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Tax Exempt
- Unspecified
- Surface Water



The information on this Geographic Information System map cannot guarantee information. Each user for determining its suitability for a particular purpose. City departments approve applications.

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MAP DATE:



Zoning Review Memorandum ATTACHMENT C

Dt: January 28, 2010

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official
Candace Havens, Acting Director of Planning and Development 

Cc: Walter B. Adams, representing Daikanyama Japanese Cuisine
Ouida Young, Associate City Solicitor

RE: Request to permit a restaurant with 50 seats.

Applicant: Feng Hua Chow, Daikanyama Japanese Cuisine

Site: 225 Boylston Street

SBL: Section 65, Block 8, Lots 99B

Zoning: BU-1

Lot Area: 190,368 square feet

Current use: Storage space within
Bloomingdale's department store

Proposed use: 50 seat restaurant

Background:

The subject property consists of a 190,368 square foot lot currently improved with the Bloomingdale's retail store. The Mall at Chestnut Hill is attached to the Bloomingdale's building on a separate lot. Surrounding the building there are several parking lots and a parking garage on an adjacent lot to the north. The applicants are proposing to convert a 2,550 square foot storage space within the Bloomingdale's department store into a 50 seat Japanese restaurant.

Although technically multiple lots with multiple owners make up the area commonly referred to as "The Mall at Chestnut Hill," for zoning purposes, the parking provided on all of the lots is shared in order to meet the parking demands of all of the businesses on the collective sites. In January 1995, the Board of Aldermen approved a special permit (Board Order #373-94) to allow an expansion of the Bloomingdale's Men's Store. Finding #6 of the Board Order states "no parking waiver is needed for the proposed addition and that with this expansion, the existing on-site parking at the Mall has reached its maximum capacity." Since that time, the uses within the buildings have changed slightly but have not increased the parking demand – keeping the demand equal to the number of spaces available on site. The subject petition will increase parking demand for the first time since the Board Order was issued and therefore a special permit is necessary to waive required parking spaces.

Administrative determinations:

1. The subject property is located in the BU-1 zoning district. The applicants are proposing a restaurant with a total of 50 seats. This is an allowed use in the BU-1 zone per Section 30-11(a)(9) of the Newton Zoning Ordinance.

2. Section 30-19(c)(2) outlines a formula ($A-B+C$ = number of required spaces) to determine how many on-site parking spaces must be provided with a change of use in a building. Variable A is the number of off-street parking stalls required under 30-19(d) for the proposed use(s). Variable B is the number of off-street parking stalls that would have been required for the previous use(s). Variable C is the number of off-street parking spaces located on-site.

In this case, Board Order #373-94 confirms that there are no excess parking spaces on site (i.e. Variable B = Variable C). Since the proposed restaurant will reuse existing retail space, the chart below shows that the applicants either need to provide 11 ($20-9=11$) additional parking spaces on site or obtain a special permit from the Board of Aldermen under Section 30-19(m) of the Ordinance to waive this requirement.

Use	Required per Section 30-19(d)	Prior Use	Previous Parking Requirement	Proposed Use	Proposed Parking Requirement
Retail	1 space/300 square feet	2,550 square feet, no employees*	9	N/A	N/A
Restaurant	1 space/3 seats and 1 space/3 employees	N/A	N/A	50 seats and 9 employees	20

* The space in question is currently being used as storage for Bloomingdale's. Since it is located on the first floor, for the purposes of calculating parking requirements, it is considered useable retail space, but there is no credit for employees working there.

3. See "Zoning Relief Summary" below:

Zoning Relief Summary		
Ordinance		Action Required
	Parking	
§30-19(d), 30-19(m)	Waiver 11 parking spaces	SP per §30-24

Plans and materials reviewed:

- Sketched floor plan of Bloomingdale's, 40 Carrots Café and the proposed Daikanyama restaurant
- "PSK-06, Daikanyama at Bloomingdale's, Floor Plan, drawn by Darlow Christ Architects, dated 29 Dec 2009, neither signed nor stamped by a licensed professional
- "PSK-08, Daikanyama at Bloomingdale's, Partial Exterior Elevation, dated 29 Dec 09, drawn by Darlow Christ Architects, neither signed nor stamped by a licensed professional
- "Bloomingdale's Elevations, South Elevation, Entrance to Daikanyama at Bloomingdale's
- "A1.0, Site Plan, Bloomingdale's, Mall at Chestnut Hill, 225 Boylston Street, Chestnut Hill, MA 02467, dated 6/1/06, neither signed nor stamped by a licensed professional
- Letter from Walter Blair Adams, AIA regarding parking calculations dated November 15, 2009
- Photo Survey of Available Parking and other photographs